

United States District Court
Central District Of California
Western Division

UNITED STATES OF AMERICA,
Plaintiff/Respondent,
v.
LEWIS LEE SETTLES.
Defendant/Petitioner.

CASE CASE NO. 2:17-CV-09314- ODW
CR-08-00564- ODW

**ORDER DENYING REQUEST
FOR RECONSIDERATION OF
THE DENIAL OF THE 28 U.S.C.
§2255 PETITION**

On October 20, 2017 Settles filed a Motion to Vacate, Set Aside or Correct Sentence of 180 months consisting of two mandatory minimum terms. A term of 120 months was imposed as the mandatory minimum sentence for violation of 21 U.S.C. §841(b)(1)(B)(iv). A second term of 60 months consecutive was imposed for his conviction for 18 U.S.C. §924(c)(1)(A)(I) stemming from his possession of a firearm in connection with a drug trafficking offense. Petitioner cited the decision in *Dean v.*

1 *United States*, ___ U.S. ___, 137 S. Ct. 1170 (2017) as justification for his request for
2 correction of his sentence. However, unlike the *Dean* case, the court in the instant case
3 had no discretion but to impose the mandatory minimum sentences, one of which is
4 mandated to be consecutive to the sentence in the underlying offense. It should be
5 noted that neither sentence was a “guidelines” sentence.

6 The government filed an opposition to the motion for correction raising two
7 procedural grounds as to why the motion should be denied, plus a merits based
8 argument against granting the motion. Thereafter, Defendant filed his Reply. The court
9 issued its order denying the request for correction. Defendant points out that he was
10 not given until December 28, 2018 to file a Reply and therefore feels he has been denied
11 due process. In fact, Defendant did file a reply. Nothing in that Reply causes the court
12 to reconsider its conclusion that no sentence “correction” is warranted or even
13 permissible.

14 The Request for Reconsideration is DENIED.

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16 DATED:
17 December 11, 2018



18 Otis D. Wright, II
19 United States District Judge
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